

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

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**HOUSE BILL 120**

Short Title: Govt. Retirement/No Vacation Leave Spiking. (Public)

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Sponsors: Representative Warren.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

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Referred to: Pensions and Retirement, if favorable, State Personnel, if favorable, Rules, Calendar, and Operations of the House

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February 15, 2023

A BILL TO BE ENTITLED  
AN ACT LIMITING THE AMOUNT OF VACATION LEAVE CARRIED FORWARD FOR  
THE PURPOSE OF CALCULATING AVERAGE FINAL COMPENSATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-1(7a)a. reads as rewritten:  
"(7a)

- a. "Compensation" shall mean all salaries and wages prior to any reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457 of the Internal Revenue Code, not including any terminal payments for unused sick leave, derived from public funds which are earned by a member of the Retirement System for service as an employee or teacher in the unit of the Retirement System for which ~~he~~the employee or teacher is performing full-time work. In addition to the foregoing, "compensation" shall include:
1. Performance-based compensation (regardless of whether paid in a lump sum, in periodic installments, or on a monthly basis);
  2. Conversion of additional benefits to salary (additional benefits such as health, life, or disability plans), so long as the benefits are other than mandated by State law or regulation;
  3. Payment of tax consequences for benefits provided by the employer, so long as they constitute an adjustment or increase in salary and not a "reimbursement of expenses";
  4. Payout of vacation leave so long as such payouts are permitted by applicable law and regulation;
  5. Employee contributions to eligible deferred compensation plans; ~~and~~
  6. Effective July 1, 2009, payment of military differential ~~wages~~; ~~wages~~; and
  7. For an employee or teacher who starts earning contributory retirement service in this retirement system on or after January 1, 2024, only the amount of unused vacation leave accruing during the 12-month period immediately preceding the employee's or teacher's retirement shall be counted for the purpose of calculating average final compensation.



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1           **SECTION 2.** G.S. 128-21(7a)a. reads as rewritten:

2           "(7a) a.       "Compensation" shall mean all salaries and wages prior to any  
3                       reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457  
4                       of the Internal Revenue Code, not including any terminal payments for  
5                       unused sick leave, derived from public funds which are earned by a  
6                       member of the Retirement System for service as an employee in the  
7                       unit of the Retirement System for which ~~he~~ the employee is performing  
8                       full-time work. In addition to the foregoing, "compensation" shall  
9                       include:

- 10           1.       Performance-based compensation (regardless of whether paid  
11                       in a lump sum, periodic installments, or on a monthly basis);
- 12           2.       Conversion of additional benefits to salary (additional benefits  
13                       such as health, life, or disability plans), so long as the benefits  
14                       are other than mandated by State law or regulation;
- 15           3.       Payment of tax consequences for benefits provided by the  
16                       employer so long as they constitute an adjustment or increase  
17                       in salary and not a "reimbursement of expenses";
- 18           4.       Payout of vacation leave so long as such payouts are permitted  
19                       by applicable law and regulation;
- 20           5.       Employee contributions to eligible deferred compensation  
21                       plans; ~~and~~
- 22           6.       Effective July 1, 2009, payment of military differential  
23                       ~~wages-wages; and~~
- 24           7.       For an employee who starts earning contributory retirement  
25                       service in this retirement system on or after January 1, 2024,  
26                       only the amount of unused vacation leave accruing during the  
27                       12-month period immediately preceding the employee's  
28                       retirement shall be counted for the purpose of calculating  
29                       average final compensation."

30           **SECTION 3.** This act is effective when it becomes law.